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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Office of Administrative Appeals MS 2090
Washington, DC 20529-2090

**U.S. Citizenship
and Immigration
Services**

B2

FILE: SRC 07 102 52476 Office: TEXAS SERVICE CENTER Date: **JUN 01 2009**

IN RE: Petitioner:
 Beneficiary:

PETITION: Immigrant Petition for Alien Worker as an Alien of Extraordinary Ability Pursuant to Section 203(b)(1)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(1)(A)

ON BEHALF OF PETITIONER:

SELF-REPRESENTED

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

If you believe the law was inappropriately applied or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. Please refer to 8 C.F.R. § 103.5 for the specific requirements. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$585. Any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen, as required by 8 C.F.R. § 103.5(a)(1)(i).

John F. Grissom
Acting Chief, Administrative Appeals Office

DISCUSSION: The employment-based immigrant visa petition was denied by the Director, Texas Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The petitioner seeks classification as an employment-based immigrant pursuant to section 203(b)(1)(A) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(1)(A), as an alien of extraordinary ability in the sciences. The director determined that the petitioner had not established the sustained national or international acclaim necessary to qualify for classification as an alien of extraordinary ability. More specifically, the director found that the petitioner had failed to demonstrate receipt of a major, internationally recognized award, or that she meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3).

On appeal, the petitioner argues that she meets at least three of the regulatory criteria at 8 C.F.R. § 204.5(h)(3). The petitioner states that her contributions “were not discussed or given importance” and requests approval of the petition.

Section 203(b) of the Act states, in pertinent part, that:

(1) Priority workers. -- Visas shall first be made available . . . to qualified immigrants who are aliens described in any of the following subparagraphs (A) through (C):

(A) Aliens with extraordinary ability. -- An alien is described in this subparagraph if --

- (i) the alien has extraordinary ability in the sciences, arts, education, business, or athletics which has been demonstrated by sustained national or international acclaim and whose achievements have been recognized in the field through extensive documentation,
- (ii) the alien seeks to enter the United States to continue work in the area of extraordinary ability, and
- (iii) the alien's entry into the United States will substantially benefit prospectively the United States.

U.S. Citizenship and Immigration Services (USCIS) and legacy Immigration and Naturalization Service (INS) have consistently recognized that Congress intended to set a very high standard for individuals seeking immigrant visas as aliens of extraordinary ability. *See* 56 Fed. Reg. 60897, 60898-99 (Nov. 29, 1991). As used in this section, the term “extraordinary ability” means a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2). The specific requirements for supporting documents to establish that an alien has sustained national or international acclaim and recognition in his or her field of expertise are set forth in the regulation at 8 C.F.R. § 204.5(h)(3). The relevant criteria will be addressed below. It should be reiterated, however, that the petitioner must show that she has sustained national or international acclaim at the very top level.

This petition, filed on February 8, 2007, seeks to classify the petitioner as an alien with extraordinary ability as biomedical researcher. The petitioner holds a Ph.D. in Biochemistry from the Indian Institute of Technology Kanpur (1997). At the time of filing, the petitioner was working as a Research Professional Associate in the Department of Neurobiology, Pharmacology, and Physiology at the University of Chicago. In September 2007, the petitioner began working as a Senior Research Fellow in the Division of Pulmonary and Critical Care Medicine at the Mayo Clinic in Rochester, Minnesota.

The regulation at 8 C.F.R. § 204.5(h)(3) indicates that an alien can establish sustained national or international acclaim through evidence of a one-time achievement (that is, a major, internationally recognized award). Barring the alien's receipt of such an award, the regulation outlines ten criteria, at least three of which must be satisfied for an alien to establish the sustained acclaim necessary to qualify as an alien of extraordinary ability. A petitioner, however, cannot establish eligibility for this classification merely by submitting evidence that simply relates to at least three criteria at 8 C.F.R. § 204.5(h)(3). In determining whether the petitioner meets a specific criterion, the evidence itself must be evaluated in terms of whether it is indicative of or consistent with sustained national or international acclaim. A lower evidentiary standard would not be consistent with the regulatory definition of "extraordinary ability" as "a level of expertise indicating that the individual is one of that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). The petitioner has submitted evidence pertaining to the following criteria.¹

Documentation of the alien's receipt of lesser nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

The petitioner submitted a certificate from the American Society for Investigative Pathology (ASIP) stating that she received a "2006 Trainee Travel Award . . . for outstanding research in experimental pathology." We cannot conclude that the petitioner's receipt of funding "to offset travel expenses for Trainee members of ASIP" attending its annual meeting is tantamount to her receipt of a nationally or internationally recognized award for excellence in the field.² The petitioner's selection for an award limited by its terms to "Trainee members" is not an indication that she is among "that small percentage who have risen to the very top of the field of endeavor." 8 C.F.R. § 204.5(h)(2). Receipt of such AN award offers no meaningful comparison between the petitioner and experienced professionals in the field who have long since completed their postdoctoral research training. The petitioner seeks a highly restrictive visa classification, intended for individuals already at the top of their respective fields, rather than for individuals progressing toward the top at some unspecified future time.

¹ The petitioner does not claim to meet or submit evidence relating to the criteria not discussed in this decision.

² See "ASIP Trainee Travel Awards" at <http://www.asip.org/awds/trainee.htm>, accessed on May 13, 2009, copy incorporated into the record of proceeding. The petitioner was among 21 ASIP Trainee members who received this travel award in 2006.

The petitioner submitted certificates from the University of New Mexico Office of Animal Care and Compliance certifying that she “satisfactorily completed” the “Animal Care and Use Training Module” and the “Mouse Biomethodology Training Module” in May 2006. The petitioner also submitted a “Certificate of Training” stating that she “successfully completed 10 hours of instruction in Introduction to Radiation Protection Technology” in May 2005. The preceding certificates are not “prizes or awards.” Further, the petitioner has not established that the certificates were presented for excellence in the field rather than her fulfillment of career training requirements. Successful completion of training courses is not tantamount to one’s receipt of nationally or internationally recognized prizes or awards for excellence in the field of endeavor.

In light of the above, the petitioner has not established that she meets this criterion.

Documentation of the alien’s membership in associations in the field for which classification is sought, which require outstanding achievements of their members, as judged by recognized national or international experts in their disciplines or fields.

In order to demonstrate that membership in an association meets this criterion, a petitioner must show that the association requires outstanding achievement as an essential condition for admission to membership. Membership requirements based on employment or activity in a given field, minimum education or experience, standardized test scores, grade point average, recommendations by colleagues or current members, or payment of dues, do not satisfy this criterion as such requirements do not constitute outstanding achievements. Further, the overall prestige of a given association is not determinative; the issue here is membership requirements rather than the association’s overall reputation.

The petitioner submitted a June 8, 2005 letter from the ASIP confirming that she is an “active member” of the Society and that it has “over 2000” members. This letter does not indicate the specific membership category held by the petitioner.³ We note, however, that petitioner received a “Trainee” member Travel Award from the ASIP in 2006.⁴ In response to the director’s request for evidence, the petitioner submitted general information about the ASIP from its internet site, but her response did not include evidence (such as membership bylaws or official admission requirements) showing that her membership level requires outstanding achievements. Further, the record does not establish that being a Trainee member in the ASIP is an indication that the petitioner “is one of that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2).

³ According to the ASIP’s internet site, the Society has the following membership categories: Regular, Trainee, and Associate. See ASIP “Membership Categories” at <http://www.asip.org/mbr/criteria.htm>, accessed on May 13, 2009, copy incorporated into the record of proceeding.

⁴ “Candidates for **trainee membership** are graduate students, residents or postdoctoral fellows. Students who are enrolled in a graduate program leading to a degree in medicine, osteopathy, pathology or a related discipline including individuals who were recently awarded a doctoral degree and who occupy a post-doctoral or residency position at an academic center, a hospital, a research institution or in industry are eligible for Trainee membership.” See ASIP “Membership Categories” at <http://www.asip.org/mbr/criteria.htm>, accessed on May 13, 2009, copy incorporated into the record of proceeding

The petitioner submitted a November 2003 certificate stating that she is a “Regular Member” of the American Physiological Society (APS). In response to the director’s request for evidence, the petitioner submitted information from the APS internet site stating: “Regular membership in the APS is open to individuals who have conducted and published meritorious original research in physiology and are actively engaged in physiological work.” We note that publication of one’s work is inherent to scientific research.⁵ There is no evidence showing that conducting and publishing meritorious original research is indicative of a level of accomplishment tantamount to “outstanding achievements.”

The petitioner submitted certificates reflecting that she was a member of the Indian Institute of Technology Kanpur Students’ Gymkhana Cultural Council (1993-1994) and the Chemical Society of the Department of Chemistry at the Indian Institute of Technology Kanpur (1991-1992). The record does not include supporting evidence showing the admission requirements for these institutional organizations.

In this case, the petitioner has not established that the ASIP, the APS, the Students’ Gymkhana Cultural Council, and the Chemical Society require outstanding achievements of their members, as judged by recognized national or international experts in her field or an allied one. Accordingly, the petitioner has not established that she meets this criterion.

Evidence of the alien’s original scientific, scholarly, artistic, athletic, or business-related contributions of major significance in the field.

The petitioner submitted several letters of recommendation discussing her research contributions. On appeal, the petitioner argues that these letters describe her “contribution to the scientific community at the extraordinary level” and demonstrate that she meets this regulatory criterion.

██████████ Professor of Pathology, University of New Mexico Health Sciences Center, states:

Before joining my laboratory [the petitioner] trained in pharmaceutical research in India and was responsible for drug design and testing and worked with many premier Institutions in India In 2001, she moved to Johns Hopkins University School of Medicine where she worked on an ion channel family referred to as the Na⁺/H⁺ exchangers. Here, she contributed to the understanding of the structure and function of this protein, which is known

⁵ The Department of Labor’s Occupational Outlook Handbook, 2008-2009 (accessed at www.bls.gov/oco on May 13, 2009 and incorporated into the record of proceeding), provides information about the nature of employment as a postsecondary teacher (professor) and the requirements for such a position. See www.bls.gov/oco/ocos066.htm. The handbook expressly states that faculty members are pressured to perform research and publish their work and that the professor’s research record is a consideration for tenure. Moreover, the doctoral programs training students for faculty positions require a dissertation, or written report on original research. *Id.* This information reveals that original published research, whether arising from research at a university or private employer, does not set the researcher apart from faculty in that researcher’s field.

to be involved in many human diseases including hypertension, kidney disease and eye disorders. Three peer-reviewed publications in top-tier journals resulted from her work at Johns Hopkins University

* * *

[The petitioner] worked in my research laboratory as a postdoctoral fellow from May 2004 – May 2006. [The petitioner] quickly mastered work with mammalian cells, live cell imaging and confocal microscopy, having worked previously in yeast and *Drosophila* systems. She studied the rab7 GTPase and associated proteins in the control of late endocytic membrane transport. For this purpose, [the petitioner] developed an assay that traces endocytic transport based on the degradation of a key growth factor receptor. This work has important applications to cancer biology and, as detailed below, to neurological disease. Her studies were published as a chapter in “*Methods in Enzymology*” and she served as the lead author on a review on Membrane Trafficking and Cardiovascular disease in “*Circulation Research*” a peer-reviewed publication of the American Heart Association. [The petitioner] also presented her findings at National and International conferences. Thus, [the petitioner] has rapidly distinguished herself as a competent and promising research scientist with her publication and presentation record as the lead first author.

[The petitioner’s] work has application to an important family of neurological diseases called Charcot-Marie Tooth Disease (CMTD). CMTD is the most common inherited neurological disorder, affecting approximately 150,000 Americans. . . . At present there is no cure for CMTD, although physical therapy and moderate activity are often recommended to maintain muscle strength and endurance. . . . Because our group first identified the function of the rab7 GTPase in late endocytic membrane transport and over the years has established many assays for tracing the trafficking of internalized proteins for degradation, [the petitioner] was uniquely poised to answer key open questions with disease relevance. She evaluated the defects associated with disease-causing mutations in Rab7 and obtained evidence that the mutations disrupt normal endocytic membrane transport. She was invited to present her work orally at the Experimental Biology in a session sponsored by the American Society of Investigative Pathology. The abstract was also selected for a platform presentation at a meeting of the American Society of Neurochemistry, 2006 and a manuscript is in preparation.

██████████ Professor of Biology, New Mexico Institute of Mining and Technology, states:

I have known [the petitioner] since she joined the University of New Mexico and am quite familiar with her scientific work. Recently, I have had a chance to discuss her work and UNM and I found myself re-confirmed in my view of her as a scientist of outstanding potential. . . . [The petitioner’s] research is highly regarded in her field. This is illustrated by her publications in top-quality journals, her participation in international conferences and her presentations.

In the same manner as [REDACTED] [REDACTED] discusses the petitioner's publications and conference presentations. The petitioner's published and presented work is far more relevant to the "authorship of scholarly articles" criterion at 8 C.F.R. § 204.5(h)(3)(vi). Here it should be emphasized that the regulatory criteria are separate and distinct from one another. Because separate criteria exist for authorship of scholarly articles and original contributions of major significance, USCIS clearly does not view the two as being interchangeable. If evidence sufficient to meet one criterion mandated a finding that an alien met another criterion, the requirement that an alien meet at least three criteria would be meaningless. We will fully address the petitioner's published and presented work under the next criterion.

LeBoff Professor for Research in Digestive Diseases, Johns Hopkins University School of Medicine, states:

I have known [the petitioner] since she joined department of Physiology in Johns Hopkins University School of Medicine in the laboratory of [REDACTED] . . .

* * *

[The petitioner] worked on a project funded by National Institute of health [sic] involving the function of an important transport protein, named Nhx1. During this period she constructed and characterized mutant yeast Na⁺/H⁺ exchangers which has been found involved in many pathophysiological disease related to heart, kidney and brain. Three peer-reviewed publications in top-tier journals resulted from her work at Johns Hopkins University . . .

Professor of Physiology, Johns Hopkins University School of Medicine, states:

During her tenure in my laboratory, [the petitioner] investigated the function of Nhx1, and endosomal Na⁺/H⁺ exchanger in the yeast model organism.

* * *

[The petitioner's] mutagenic analysis on yeast Nhx1 provided new insights into the role of this important protein. Three peer-reviewed publications in top-tier journals resulted from her work in my laboratory at the Johns Hopkins University. . . . Based on these studies, I believe that [the petitioner] is a productive and skilled researcher who has made key contributions with her research in the United States.

[REDACTED] Family Professor of Neurosciences, University of Chicago, states:

[The petitioner] has performed research on the function of endosomal Na⁺/H⁺ exchangers, using yeast as a model organism. This protein is evolutionarily important protein from plants to human and its alteration in function produced several human disease associated with heart, kidney, lung and eye. [The petitioner's] work provided new evidence for a new role of these

exchangers in K⁺ regulation along with Na⁺. She has done extensive site-directed mutagenesis study on this transport protein using molecular physiology to understand which amino acids are important for this protein. [The petitioner's] mutagenesis study on yeast Nhx1 provide [sic] new insights into the role of various transport proteins involved in many human diseases such as cystic fibrosis and ulcerative colitis.

* * *

[The petitioner's] vital work on discerning the molecular causes of various genetic diseases with a focus on Charcot Marie-Tooth syndrome will elucidate the molecular mechanism underlying such diseases. Her work in discerning the cause of this disease due to mutation of an important protein Rab7 was found quite important to unveil the cause of this disease.

While the petitioner's research is no doubt of value, it can be argued that any research must be shown to be original and present some benefit if it is to receive funding and attention from the scientific community. Any Ph.D. thesis or postdoctoral research, in order to be accepted for graduation, publication, presentation, or funding, must offer new and useful information to the pool of knowledge. It does not follow that every researcher who performs original research that adds to the general pool of knowledge has inherently made a contribution of major significance in the field.

██████████, Professor of Medicine and Professor of Biochemistry and Molecular Biology, Mayo Clinic, Rochester, Minnesota, states:

[The petitioner] has expertise in working with mammalian cells, yeast, drosophila melanogaster, mouse model, live cell imaging, and confocal microscopy, as well as molecular biology which are very important in the field of biomedical research. In particular she has studied a class of proteins called the Rab GTPases that are involved in the intracellular transport of lipids and proteins and have been found involved in several human diseases for which a group of scientists are still investigating the mechanism to understand the disease pathology and its treatment.

* * *

During her tenure in my laboratory [the petitioner] will study cells isolated from patients with Niemann Pick Type C (NP-C) disease and a lung disease named cystic fibrosis to establish the influence of particular Rab proteins on these cells. . . . In particular she will extend our recent findings which demonstrated that over-expression of Rab4, 7, or 9 in NP-C cells reduced cholesterol storage and alleviated some of the defects associated with this cell type for which we have very limited information. [The petitioner] is ideally suited for this work because of her previous training and I am confident she will bring a number of new insights into how the Rab proteins function in our disease model.

[The petitioner's] previous experience on mutagenesis study, cell biology, and protein biochemistry knowledge with the application in neurobiology will impact greatly on these groundbreaking projects for the identification of the related mechanisms involved in neurodegenerative diseases and other human diseases and to the development of innovative therapies.

discusses the petitioner's work on research projects that post-date the filing of this petition. A petitioner, however, must establish eligibility at the time of filing. 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. 45, 49 (Regl. Commr. 1971). Accordingly, the AAO will not consider the petitioner's research projects that commenced subsequent to the petition's filing date in this proceeding. With regard to the witnesses of record, many of them discuss the promise of the petitioner's research and what may one day result from her work, rather than how her past research already qualifies as an original contribution of major significance in the field. A petitioner cannot file a petition under this classification based on the expectation of future eligibility. See *Matter of Katigbak*, 14 I&N Dec. at 49. The assertion that the petitioner's research results hold promise is not adequate to establish that her findings are already nationally or internationally acclaimed as significant contributions in the field.

According to the regulation at 8 C.F.R. § 204.5(h)(3)(v), an alien's contributions must be not only original but of major significance. We must presume that the phrase "major significance" is not superfluous and, thus, that it has some meaning. While the petitioner has performed admirably on the research projects to which she was assigned, the evidence of record does not establish that she has made original scientific contributions of major significance in her field. For example, the petitioner's supporting evidence does not establish that her work has had a substantial national or international impact, nor does it show that her field has significantly changed as a result of her work.

On appeal, the petitioner argues that her work on research projects funded by the National Institutes of Health (NIH) and the National Science Foundation (NSF) demonstrates "the importance of the work and the result." In this case, there is no evidence showing that the petitioner was named as the principal investigator on an NIH or NSF grant. Nor is there a statement from any official at the NIH or the NSF indicating that the petitioner's specific results were viewed as particularly important when compared to those of the thousands of other NIH or NSF grant recipients. In regard to the research grants for which the petitioner or her superiors applied and received funding, it is noted that research grants simply fund a scientist's work. The past achievements of the principal investigator are a factor in grant proposals. The funding institution has to be assured that the investigator is capable of performing the proposed research. Nevertheless, a research grant is principally designed to fund future scientific research, and is not an indication that the recipient has already made original contributions of major significance in the field. Further, we note that a substantial amount of scientific research is funded by research grants from a variety of public and private sources. Therefore, we cannot conclude that obtaining research funding is evidence that one's work is already recognized as having major significance in the field.

In this case, the letters of recommendation are not sufficient to meet this regulatory criterion. USCIS may, in its discretion, use as advisory opinions statements submitted as expert testimony. See *Matter*

of *Caron International*, 19 I&N Dec. 791, 795 (Commr. 1988). However, USCIS is ultimately responsible for making the final determination regarding an alien's eligibility for the benefit sought. *Id.* The submission of letters from experts supporting the petition is not presumptive evidence of eligibility; USCIS may evaluate the content of those letters as to whether they support the alien's eligibility. *See id.* at 795-796. Thus, the content of the experts' statements and how they became aware of the petitioner's reputation are important considerations. Even when written by independent experts, letters solicited by an alien in support of an immigration petition are of less weight than preexisting, independent evidence of original contributions of major significance that one would expect of a biomedical researcher who has sustained national or international acclaim. Without evidence showing that the petitioner's work has been unusually influential, highly acclaimed throughout her field, or has otherwise risen to the level of contributions of major significance, we cannot conclude that she meets this criterion.

Evidence of the alien's authorship of scholarly articles in the field, in professional or major trade publications or other major media.

We withdraw the director's finding that the petitioner meets this regulatory criterion. The petitioner submitted evidence showing that she coauthored articles in publications such as *Journal of Enzyme Inhibition*, *Journal of Biological Chemistry*, and *Molecular Biology of the Cell*. The petitioner also submitted evidence showing that she coauthored papers for presentation at various scientific conferences. We take administrative notice of the fact that authoring scholarly articles is inherent to scientific research. For this reason, we will evaluate a citation history or other evidence of the impact of the petitioner's articles when determining their significance to the field. For example, dozens of independent citations for an article authored by the petitioner would provide solid evidence that other researchers have been influenced by her work and are familiar with it. On the other hand, few or no citations of an article authored by the petitioner may indicate that her work has gone largely unnoticed by her field. In this case, the petitioner submitted evidence showing that her published articles have been independently cited an aggregate of six times. While these citations demonstrate a small degree of interest in her published work, they are not sufficient to demonstrate that her articles have attracted a level of interest in her field consistent with sustained national or international acclaim.

In light of the above, the petitioner has not established that she meets this criterion.

Evidence that the alien has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.

At issue for this criterion are the position the petitioner was selected to fill and the reputation of the entity that selected her. In other words, the position must be of such significance that the alien's selection to fill the position, in and of itself, is indicative of or consistent with national or international acclaim.

The petitioner submitted letters of recommendation from her superiors at the Johns Hopkins University School of Medicine, the University of New Mexico Health Sciences Center, the University of

Chicago, and the Mayo Clinic. As discussed above, the petitioner's work at the Mayo Clinic post-dates the filing of the petition and will not be considered in this proceeding. 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. at 49. While the petitioner has performed admirably on the research projects to which she was assigned, there is no evidence showing that her roles as a postdoctoral research fellow and a research professional associate were leading or critical for the preceding universities. We note that the petitioner's post-doctoral fellowships were designed to provide research training for a future professional career in the field of endeavor. The petitioner's evidence does not demonstrate how her subordinate research roles differentiated her from the other researchers employed at her universities, let alone their tenured faculty and principal investigators.⁶ For example, there is no indication that the petitioner has served as a principal investigator and initiated her own research projects. The documentation submitted by the petitioner does not establish that she was responsible for her employers' success or standing to a degree consistent with the meaning of "leading or critical role" and indicative of sustained national or international acclaim.

In light of the above, the petitioner has not established that she meets this criterion.

Evidence that the alien has commanded a high salary or other significantly high remuneration for services, in relation to others in the field.

The petitioner submitted a September 8, 2006 letter to her from [REDACTED] offering a salary of \$45,355 at the University of Chicago. In response to the director's request for evidence, the petitioner submitted a March 1, 2004 letter to her from [REDACTED] offering a salary of \$39,800. The petitioner also submitted an April 24, 2006 letter to her from [REDACTED] Professor, Department of Neurosciences, University of New Mexico, stating: "As agreed your salary will be \$42,800 per year, which is just above the recommended NIH salary for postdoctoral fellows in their third year." On appeal, the petitioner submits an October 16, 2007 letter from the Mayo Clinic stating that she receives an annual salary "in the amount of \$51,036." As discussed above, the petitioner began working at the Mayo Clinic in September 2007. A petitioner must establish eligibility at the time of filing. 8 C.F.R. §§ 103.2(b)(1), (12); *Matter of Katigbak*, 14 I&N Dec. at 49. Accordingly, the AAO will not consider the petitioner's salary at the Mayo Clinic in this proceeding.

[REDACTED] letter states that the petitioner's salary "is just above the recommended NIH salary for postdoctoral fellows in their third year." The record, however, does not include supporting evidence from the NIH showing its salary recommendations for postdoctoral fellows in their third year. Going on record without supporting documentary evidence is not sufficient for purposes of meeting the burden of proof in these proceedings. *Matter of Soffici*, 22 I&N Dec. 158, 165 (Comm. 1998) (citing *Matter of Treasure Craft of California*, 14 I&N Dec. 190 (Reg. Comm. 1972)). Nevertheless, the plain language of this regulatory criterion requires evidence showing that the petitioner has commanded "a high salary . . . in relation to others in the field." The petitioner's receipt of a salary

⁶ A comparison of the petitioner's positions with those of her superiors (such as [REDACTED]) and of the other individuals offering letters of support indicates that the very top of her field is a level above her present level of achievement.

amount “just above” other “postdoctoral fellows in their third year” does not meet the plain language of this regulatory criterion for two reasons. First, the petitioner has not established that her compensation reflected a “high salary” rather than falling “just above” the postdoctoral level recommended by the NIH. Second, the petitioner’s reliance on salary information limited to third-year postdoctoral fellows is not an appropriate basis for comparison. The petitioner must submit evidence showing that her salary is significantly high in relation to that of researchers in her field (including tenured faculty) rather than in relation to only third-year postdoctoral fellows. The petitioner offers no reliable salary statistics as a basis for comparison showing that her university salaries were significantly high in relation to others in her field. Accordingly, the petitioner has not established that she meets this criterion.

In this case, we concur with the director’s finding that the petitioner has failed to demonstrate her receipt of a major internationally recognized award, or that she meets at least three of the criteria that must be satisfied to establish the national or international acclaim necessary to qualify as an alien of extraordinary ability. 8 C.F.R. § 204.5(h)(3). The conclusion we reach by considering the evidence to meet each criterion separately is consistent with a review of the evidence in the aggregate. Even in the aggregate, the evidence does not distinguish the petitioner as one of the small percentage who has risen to the very top of the field of endeavor. 8 C.F.R. § 204.5(h)(2).

Review of the record does not establish that the petitioner has distinguished herself to such an extent that she may be said to have achieved sustained national or international acclaim or to be within the small percentage at the very top of her field. The evidence is not persuasive that the petitioner’s achievements set her significantly above almost all others in her field at a national or international level. Therefore, the petitioner has not established eligibility pursuant to section 203(b)(1)(A) of the Act and the petition may not be approved.

The burden of proof in visa petition proceedings remains entirely with the petitioner. Section 291 of the Act, 8 U.S.C. § 1361. Here, the petitioner has not sustained that burden. Accordingly, the appeal will be dismissed.

ORDER: The appeal is dismissed.